



**PLANNING AND ZONING ADVISORY BOARD AGENDA
REGULAR MEETING
Village Hall Council Chambers
226 Cypress Lane
Palm Springs, FL 33461
Tuesday, October 8, 2019
6:30 PM**

Persons who need an accommodation in order to attend or participate in this meeting should contact the Village Clerk at (561) 965-4010 at least three (3) business days prior to the meeting in order to request such assistance.

1. CALL TO ORDER

2. ROLL CALL

BOARD MEMBERS

*Chairman Johnnie Tieche
Vice Chairman Richard Hughes
Ralph Lashells
James Mandigo
Peter Braun
Kim Gehrman, Sr. Alternate
Larry Saingilus, Jr. Alternate*

STAFF

*Planning, Zoning and Building Director, Kimberly Glas-Castro
Planning, Zoning and Building Planner, Iramis Cabrera
Village Attorney Brian Shutt
Deputy Village Clerk Jane R. Worth*

3. PLEDGE OF ALLEGIANCE

4. ADDITIONS, DELETIONS, OR MODIFICATIONS, AND APPROVAL OF AGENDA

5. PUBLIC HEARINGS

- 5.1 Ordinance No. 2019-18 - Village Code Amendment - Chapter 34 - Subdivisions
Motion to approve proposed Ordinance No. 2019-18.
[Ordinance No. 2019-18 - Platting Requirements](#)

6. ACTIONS AND REPORTS

- 6.1 WORKSHOP DISCUSSION: Variances
[Sec. 34-602\(2\) Variances](#)

7. ADJOURNMENT

Next Meeting

TUESDAY, NOVEMBER 12, 2019 AT 6:30 PM

If a person decides to appeal any decision made by this Council with respect to any matter considered at this meeting, he will need a record of the proceeding, and that for such purpose he may need to ensure that verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.



Village of Palm Springs

Executive Brief

AGENDA DATE: October 8, 2019

DEPARTMENT: Planning, Zoning & Building

ITEM 5.1: Ordinance No. 2019-18 - Village Code Amendment - Chapter 34 - Subdivisions

SUMMARY:

Planning, Zoning & Building staff is requesting an (housekeeping) amendment to the Village Code - Chapter 34 - Article V "Subdivisions" to provide clarification on the platting requirements and procedures based on Village Council direction and technical review requirements.

The proposed amendments include:

1. Eliminating the provisions for a "subdivision site plan" and referencing the site plan requirements of Article VI, Division 5.
2. Eliminating the requirements for construction plans to be submitted concurrently with the preliminary plat.
3. Clarifying procedures for review and processing of preliminary plats and final plats.
4. Clarifying requirements for platting.

The proposed ordinance was prepared by the Village Attorney and reviewed by the Planning, Zoning & Building Director.

The proposed ordinance was approved on 1st reading by the Village Council on September 26, 2019, with a request that the section on traffic impact analysis be revised based on current Traffic Performance Standards.

FISCAL IMPACT:

The proposed ordinance does not have a direct fiscal impact to the Village.

ATTACHMENTS:

Ordinance No. 2019-18 - Platting Requirements

ORDINANCE NO. 2019-18

AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING ITS CODE OF ORDINANCES BY AMENDING CHAPTER 34 “LAND DEVELOPMENT”, ARTICLE V “SUBDIVISIONS”, TO MODIFY THE REGULATIONS REGARDING PLATTING REQUIREMENTS; PROVIDING FOR CODIFICATION, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Village desires to amend the existing regulations regarding platting requirements; and

WHEREAS, the Village Council has reviewed the recommended ordinance and has determined that it is in the best interests and general welfare of the Village to adopt this Ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA:

Section 1. The foregoing recitals are incorporated herein as true and correct findings of fact of the Village Council, and serve as a basis for adoption of this Ordinance.

Section 2. Chapter 34 “Land Development”, Article V “Subdivisions”, is hereby amended as follows:

ARTICLE V. - SUBDIVISIONS

DIVISION 1. - GENERALLY

Sec. 34-361. - Definitions.

The definitions and rules of construction in section 1-2 apply to this article.

Sec. 34-362. - Purpose.

The purpose of this article is to establish procedures and standards for the development and subdivision of real estate within the village in an effort to, among other things:

- (1) Ensure proper legal description, identification, monumentation and recording of real estate boundaries;
- (2) Aid in the coordination of land development in the village in accordance with orderly physical patterns;
- (3) Discourage haphazard, premature, uneconomic or scattered land development;
- (4) Ensure safe and convenient traffic control;
- (5) Encourage development of an economically stable and healthful community;
- (6) Ensure adequate utilities;

- (7) Prevent periodic and seasonal flooding by providing protective flood control and drainage facilities;
- (8) Provide public open spaces for recreation;
- (9) Ensure land subdivision with installation of adequate and necessary physical improvements;
- (10) Ensure that the citizens and taxpayers of the village will not have to bear the costs resulting from haphazard subdivision of land and the lack of authority to require installation by the developer of adequate and necessary physical improvements; and
- (11) Ensure to the purchaser of land in a subdivision that necessary improvements of lasting quality have been installed.

Sec. 34-363. - Jurisdiction.

The regulations set forth in this article shall be applicable to all subdivisions of land in or partially within the incorporated areas of the village or as established.

Sec. 34-364. - Modifications and exceptions.

The requirements outlined in this article may be modified by the village in the case of a plan and program for a complete community, which, in the judgment of the village council, gives adequate public space and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions as will ensure conformity to and implementation of the plan. In granting modifications, the village shall require reasonable conditions and safeguards as will substantially secure the objectives and standards of this article. Before granting such exceptions, the plan and program shall be in the appropriate zoning district.

Sec. 34-365. - Appeals.

Any person claiming to be injured or aggrieved by any final action of the village council may present to the circuit court of the county a petition for a writ of certiorari to review such final action as provided by the state appellant rules. The petition shall be presented to the court within 30 days after the date of the final action by the village council.

~~Sec. 34-366. - Administration.~~

~~(a) It shall be the duty of the village council to:~~

- ~~(1) Meet and review the subdivision site plan as to its compliance with this article, the laws of the state and all other applicable ordinances of the village.~~
- ~~(2) Review written applications for variances from the terms of this article. Such variances shall not be granted if it has the effect of nullifying the intent and purpose of this article.~~

~~(b) The village council meeting shall be open to the public and any person, subdivider or owner interested in a subdivision site plan or variance request may attend any such meeting and present any appropriate matter at such meeting.~~

Sec. 34-3676. - Conformance required; exceptions.

- (a) No person shall create a subdivision of a tract of land any place in the incorporated area of the village, except in conformity with this article. No subdivision shall be platted or recorded, nor shall any building permit be issued unless the subdivision meets all the provisions of this article and of any applicable state law or county ordinance, and has been approved in accordance with the requirements as set forth in this article, except that the recording of the plat may not be required in the following cases:
- ~~(1) The division of land into parcels of more than three acres in area where no street or easement of access is planned to be dedicated and accepted by the public and where streets or easements of access are dedicated to a property owners' association or a condominium or cooperative association as defined by state law.~~
 - ~~(2) The combination or recombination of portions of previously platted lots where no new parcels or residual parcels result in lots of less area, width or depth than the original lots of record.~~
 - (31) The sale or exchange of parcels of land to or between adjoining property owners where the sale or exchange does not create additional lots and does not reduce any lot to an area less than the zoning district in which the property is located permits, and no dedications or improvements are required under this article.
 - (42) Mobile home parks developed for rental purposes under a recorded utility of title.
 - (53) The division of tracts or parcels of land where all parcels, when divided, abut a public street, meet all the minimum requirements of the land development code of the village and no dedication or improvements are required under this article.
 - (64) The leasing of apartments, offices, stores or similar space within an apartment building, commercial building or office building.
 - (75) The required conveyance of land to a federal, state, county or municipal governmental agency, entity, political subdivision or a public utility.
- (b) The developer shall submit a preapplication to the Planning Zoning and Building Department for review and determination of completeness in the manner prescribed by this article. The village council shall review the preapplication and shall determine if, in fact, one of the conditions set forth in subsection (a) of this section does exist and, upon such determination, shall delete the requirements for platting.
- (c) If, pursuant to subsection (b) of this section, platting is not necessary, in lieu of platting, a certified survey shall be submitted to the village council, and the village council shall reserve the right to require deeded rights-of-way and easements, reservations or improvements required in connection with platting under this article, including the posting of a performance and maintenance bond as may be necessary to carry out the intent and purpose of this article.

Sec. 34-3687. - Sale or transfer of property.

- (a) It shall be unlawful for any person who is the owner or agent of the owner of any land to transfer, sell, agree to sell or negotiate to sell the land by reference to, exhibition of or other use of a plat of a subdivision of the land without having submitted a plan and plat of the division for approval, as required by this article, and without having recorded the approved subdivision plat as required. If such unlawful use is made of a plat before it is properly

approved and recorded, the owner or agent of the owner of the land shall be punished under state law.

- (b) The village council may bring injunctive action to enjoin such transfer, sale or agreement.
- (c) Failure to comply with the provisions of this section shall not impair the title of land so transferred or affect the validity of the title conveyed. However, a purchaser of land sold in violation of this section shall, within one year from the date of purchase thereof, be entitled to bring an appropriate action to void the sale or to bring action against the seller for any damages which he suffers as a result of the seller's unlawful act, or both.

Sec. 34-3698. - Commercial and industrial subdivisions.

Commercial and industrial subdivisions shall comply with all the requirements of this article, except that all local streets shall be designed according to the collector street typical section contained in the current county standards.

Sec. 34-37069. - Existing partially developed subdivisions.

The improvement of existing partially developed subdivisions shall comply with the requirements of this article and the following:

- (1) The existing right-of-way for local streets shall be considered sufficient, provided, it is at least 50 feet wide. If the existing right-of-way is less than 50 feet wide, additional right-of-way shall be provided to make a total of not less than 50 feet.
- (2) Easements for proper drainage shall be provided, where necessary, at a width adequate to accommodate the drainage facilities. A minimum of 12 feet shall be provided for underground storm drainage installations and, where canals or ditches are permitted, the width shall be adequate to accommodate drainage facilities, plus 20 feet on one side, to permit equipment to enter for maintenance purposes.
- (3) The preliminary plat and final plat provisions set forth in divisions 2 and 3 of this article are not required where the improvements are contained in existing platted rights-of-way, and no additional right-of-way dedication is needed. Drainage rights-of-way and easements where a plat is not required shall be submitted by a separate instrument dedicating the easement for such purposes.
- (4) In portions of a subdivision which are not under the control or ownership of the developer, the village council may waive the additional right-of-way requirement set forth in subsections (a) and (b) of this section when it is shown to be impossible for the developer to acquire the required right-of-way.

Sec. 34-3740. - Appropriate zoning required.

Prior to consideration of any proposed subdivision under the terms of this article, the area to be subdivided must have the appropriate zoning required for the intended use. A residential, multiple-family, planned development which are not under the control or ownership of the developer, the village council may waive the additional right-of-way requirement set forth in subsections (a) and (b) of this section when it is shown to be impossible for the developer to acquire

the required right-of-way. residential or commercial development, etc., must be in the proper zoning district for the development.

Sec. 34-372~~1~~. - Suitability of land.

Unless adequate methods of correction are formulated and approved in accordance with the provisions of this article, land which is determined to be unsuitable for subdivision due to poor soil quality, flooding for drainage or other features likely to be harmful to the health, safety and general welfare of future residents shall not be subdivided.

~~Sec. 34-373. Subdivision site plan Required.~~

- ~~(a) A subdivision site plan of the proposed subdivision must be submitted to the land development director with proper fees prior to for placement on the agenda of the village council.~~
- ~~(b) The developer shall retain the services of an engineer or surveyor registered in the state to prepare the subdivision site plan of the subdivision and may employ a land planner, landscape architect, architect or other technical or professional services to assist in the physical lotting patterns and site plan. The subdivision site plan shall be coordinated with the major utility suppliers involved with providing services.~~

~~Sec. 34-374. Same Contents.~~

~~The subdivision site plan, when submitted to the office of the village clerk, shall contain the following:~~

- ~~(1) Name of the subdivision or identifying title, which shall not duplicate or closely approximate the name of any other subdivision in the incorporated or unincorporated area of the county and the village.~~
- ~~(2) A vicinity sketch, showing the location of the tract in reference to other areas of the county and the village.~~
- ~~(3) North arrow, graphic scale, scale and date.~~
- ~~(4) Name, address and telephone number of the developer, with the name and address of the engineer and surveyor responsible for the plan, plat and supporting data, as to error of closure by surveyor.~~
- ~~(5) Location and names of adjacent subdivisions, if any, and plat book and page references.~~
- ~~(6) Tract boundary, with bearings and distances, with a written description.~~
- ~~(7) Topographical conditions on the tract, including all existing watercourses, drainage ditches, bodies of water, marshes and other significant features.~~
- ~~(8) All existing streets and alleys on or adjacent to the tract, including names, right-of-way widths, street or pavement widths and established centerline elevations. Existing streets shall be dimensioned to the tract boundary.~~
- ~~(9) All existing property lines, easements and rights of way, their purpose and their effect on the property to be subdivided.~~

- ~~(10) — Location and right-of-way width of all proposed streets, alleys, rights-of-way and easements, and their purpose, with the proposed layout of the lots and blocks.~~
- ~~(11) — Incorporation and compatible development of present and future streets, when such present or future streets are affected by the proposed subdivision.~~
- ~~(12) — Access points to collector and arterial streets, showing their compliance to the access requirements established by this article.~~
- ~~(13) — Ground elevations, by contour lines, at intervals of not more than one foot, based on N.G.S. datum or as otherwise determined by the village council.~~
- ~~(14) — All existing drainage district facilities and their ultimate right-of-way requirements as they affect the property to be subdivided.~~
- ~~(15) — A generalized statement of subsurface conditions on the property, location and results of tests made to ascertain subsurface soil conditions and groundwater depth.~~
- ~~(16) — Zoning classification of the tract.~~
- ~~(17) — Utilities, such as telephone, power, water, sewer, gas, etc., on or adjacent to the tract, including existing or proposed water treatment plants and sewerage treatment plants. The subdivision site plan shall contain a statement that all utilities are available and have been coordinated with all required utilities.~~
- ~~(18) — Sites proposed for parks, recreational areas and schools as required by this article and other governmental agencies.~~

Sec. 34-3752. - Traffic impact analysis.

~~A subdivision that generates 3,000 vehicle single-directional trips per day or 250 vehicle single-directional trips in a one-hour period must submit a traffic impact analysis with the subdivision site plan. All applicants must submit evidence to the Village that the proposed subdivision conforms to the requirements of the Palm Beach County “Traffic Performance Standards Ordinance”, as it applies to the Village, and to the requirements outlined in Article VI, Division 12, and other technical documentation as may be required by the Village to satisfy Section 74-1. The traffic impact analysis shall be prepared by a professional engineer and shall be used to determine the number of lanes and capacity of the street system proposed or affected by the development, based on ultimate permitted development.~~

Sec. 34-3763. - Master drainage plan.

A master drainage plan outlining the primary and secondary drainage facilities needed for the proper development of the subdivision, excluding tertiary facilities which are required on construction plans, shall be submitted with the subdivision site plan. The master drainage plan shall consist of a plan and report indicating the method of drainage, existing water elevations, recurring high water elevation, proposed design water elevation drainage structures, canals and ditches, and any other pertinent information pertaining to the control of stormwater and groundwater. In cases where modifications or improvements are not planned for primary and secondary drainage facilities, such requirement may be accomplished by indicating such on the subdivision site plan.

Sec. 34-3774. - Filing fees.

Upon filing the subdivision site plan with the ~~land development~~ PZB director, the developer shall pay a fee as established by the village council. The fee is not reimbursable, but is to help defray the cost of administering and processing the subdivision site plan. If more than one resubmittal of a corrected or revised subdivision site plan is required by the village council, an additional fee shall be charged for each resubmittal.

Sec. 34-378. - Review of subdivision site plan.

The review of subdivision site plans shall be the same as for site plans in article VI, division 5 of this chapter.

DIVISION 2. - ~~CONSTRUCTION PLANS AND PRELIMINARY PLAT~~

~~Sec. 34-401. - Required.~~

~~Upon approval of the subdivision site plan by the village council, the developer shall have prepared and shall submit construction plans and the preliminary plat to the village clerk within six months. The subdivision of a large tract may be developed in two or more increments, and the developer may submit construction plans and the preliminary plat for approval to develop the subdivision in increments.~~

Sec. 34-402~~1~~. - Preliminary plat.

- (a) ~~One print of the~~ The preliminary plat application shall be submitted to the ~~village clerk~~ PZB Department ~~with the construction plans.~~
- (b) ~~The preliminary plat shall coincide with the subdivision site plan, as approved by the village council or as amended by the village manager. When a large tract is developed into two or more increments and the incremental development does not provide for the continuous development or does not totally encompass drainage outfalls shown on the subdivision site plan, a description for a separate instrument providing a drainage easement or right of way must be submitted with the preliminary plat. Upon submittal of the final plat, the drainage easement or right of way instrument shall be submitted fully executed, in sufficient form for recording.~~
- (c) The preliminary plat shall conform to the following:
 - (1) The preliminary plat shall be prepared on sheets having overall dimensions of 24 inches by 36 inches, reserving three inches on the left margin and a one-half-inch margin on all remaining sides. A three-inch by five-inch space shall be provided in the upper righthand corner to be used by the clerk of the circuit court for recording information.
 - (2) The preliminary plat is to be drawn from an accurate survey at a scale of not smaller than 100 feet to the inch, or as otherwise determined by the village engineer, as to error of closure by the surveyor.
 - (3) If more than two sheets are required, the preliminary plat shall contain an index sheet as page one, showing the entire subdivision on one sheet and indexing the area shown on each succeeding sheet.
 - (4) The preliminary plat shall have a vicinity sketch showing the subdivision's location in reference to other areas of the village.

- (5) There shall be lettered or printed on the preliminary plat a full and detailed description of the land embraced in the plat. The description shall show the section, township and range in which the lands are situated, if not platted or not in a land grant, or portions thereof, and must be so complete that from it, without reference to the map, the starting point can be determined and the boundaries run.
 - (6) The preliminary plat shall contain the name of the subdivision, surveyor and streets. The plat shall show the scale, date and northpoint, with north being at the top or right side of the map or within the 90-degree quadrant of the map when practical; boundary lines of the proposed subdivision; lot lines; parcels of land to be dedicated to the public, a property owner's association, cooperative or condominium; easements; street right-of-way lines; and other property lines, drawn to scale, with tentative dimensions.
 - (7) The preliminary plat shall show the proposed location of permanent reference monuments as required by F.S. ch. 177.
 - (8) The preliminary plat shall show all municipal, county, township, range and section lines occurring within the subdivision, accurately tied to the lines of the subdivision by distance and bearing. Where such lines do not occur within the subdivision, bearings and distances shall be provided to the nearest established section or quarter section corner and shall be accurately described on the plat.
 - (9) The preliminary plat shall show the name or number and right-of-way width of each street or right-of-way shown on the plat and the location, dimension and purpose of any easements. Proposed streets which are obviously in alignment with other existing and named streets shall bear the assigned name of the existing streets. In no case, except as indicated in the preceding sentence, shall the name of the proposed street, excluding a numerical system, duplicate or be phonetically similar to existing street names, irrespective of the use of the suffix street, avenue, boulevard, drive, place, court, etc.
 - (10) The preliminary plat shall show the numbering or lettering of all lots and blocks. All lots shall be numbered or lettered by progressive numbers or lettered in each block. Blocks in each incremental plat shall be numbered or lettered consecutively throughout a subdivision.
 - (11) Excepted parcels not included in the preliminary plat must be marked "not part of this plat." Nonincluded parcels shall not be surrounded by the subdivision without adequate access for possible eventual development of the nonincluded parcel.
 - (12) The preliminary plat shall identify all adjacent property as to whether it is unplatted or, if subdivided, the name of the subdivision with the plat book and page number.
- (d) The preliminary plat shall contain on the face or first page of the plat the form and signature space for the following certifications and approvals, acknowledged as required by law, and in the form set forth in this article, but need not be executed until the plat is submitted in final form:
- (1) Dedication by owner.
 - (2) Mortgage consent, when applicable.
 - (3) Certificate of the surveyor.

- ~~(4) Approval of the board of county commissioners.~~
- ~~(5) Approval of the village engineer or surveyor.~~
- ~~(6) Approval of the county engineer.~~
- ~~(7) Certification of title.~~
- ~~(8) Approval of the village council.~~

~~Sec. 34-403. Submission.~~

~~Within six months from the date of approval of the subdivision site plan, the construction plans and preliminary plat shall be submitted to the village clerk, together with a cash deposit as established by the village council, a portion of which may be refundable should the cost of processing be less than the deposit. One set of each of the construction plans and plat shall be submitted to the village clerk with a written application for conditional approval.~~

~~Sec. 34-404. - Review.~~

~~The Planning Zoning and Building Department and Village surveyor shall review the application for compliance with State law and Village codes.~~

- ~~(a) The village council shall review the construction plans and preliminary plat as to their conformity with this article and, within 90 days from the date of the submittal of the plans or plat, the village shall inform the developer's engineer in writing whether the plans or plat do or do not meet the provisions of this article.~~
- ~~(b) When the village council finds that the construction plans and preliminary plat as submitted do not meet the provisions of this article, the village clerk shall advise the developer's engineer in writing and reference shall be made to the specific sections of this article with which the plans and plat do not comply. The developer's engineer shall make the corrections or revisions as defined in the statement and shall resubmit the construction plans and plat within 60 days from the date of the notice. Failure to resubmit the plans and plat within the 60-day time period will require an additional fee as established by the village council.~~
- ~~(c) When the village council finds that the construction plans and preliminary plat meet the provisions of this article, it shall advise the developer's engineer and furnish a written statement of conditional approval. Upon receipt of conditional approval, the developer's engineer shall submit four sets of the construction plans at the time of the submission of the final plat.~~
- ~~(d) Conditional approval of the construction plans and preliminary plat shall not constitute acceptance of the final plat, rather, it shall be deemed an expression of acceptance of the layout submitted on the preliminary plat as a guide to the preparation of the final plat. Conditional approval of the construction plans and preliminary plat shall not be construed as authority for filing the plat with the clerk of the county circuit court, nor as authority for the sale of lots in reference thereto.~~

~~DIVISION 3. - FINAL PLAT~~

~~Sec. 34-431. - Required.~~

As the final step in the review procedure to obtain approval for a subdivision, the developer shall have prepared and submit a final plat. Submission and approval of a final plat shall be required prior to the issuance of certificate of occupancy or the sale of the property ~~construction of the improvements required under this article~~. No such improvements, including streets, drainage, etc., shall be accepted and maintained by the village unless and until the final plat has been approved by the village engineer/surveyor and village council.

Sec. 34-432. - Fees.

Upon filing the application for final plat approval, the developer shall pay a fee as established by the village council. ~~In addition to the processing fee, the developer shall pay a fee of one percent of the estimated cost of construction of the improvements required by this article, excluding however, water and sewerage systems, to defray the cost of administering this article.~~ In order to have the final plat recorded, a separate check made payable to the clerk of the county circuit court shall accompany the final plat in the amount established by the clerk's office.

Sec. 34-433. - Conformance to preliminary plat.

The final plat shall conform to the approved preliminary plat ~~and shall constitute only that portion of the approved subdivision site plan which the developer proposes to develop within 12 months. The improvements required by this article which apply to the final plat shall be completed within 12 months from the date of recording of the plat or, if construction of the improvements is undertaken prior to recording the plat, within 12 months from the date of approval of the final plat by the village council.~~

Sec. 34-434. - Form and contents.

The final plat shall be drawn or printed on 24-inch by 36-inch linen, chronoflex, mylar or other approved material. The final plat shall be prepared by a land surveyor currently registered in the state and is to be clearly and legibly drawn with black permanent drawing ink or veritype process to a scale of not smaller than one inch to 100 feet, or as otherwise determined by the village council. The final plat shall be prepared in accordance with the provisions of F.S. ch. 177, and shall conform to the following requirements:

- (1) *Name of the subdivision.* The plat shall have a title or name acceptable to the village. When the plat is a new subdivision, the name of the subdivision shall not duplicate or be phonetically similar to the name of any existing subdivision. When the plat is an addition to a recorded subdivision, it shall carry the same name as the existing subdivision.
- (2) *Title.* The plat shall have a title printed in bold legible letters containing the name of the subdivision; the name of the village, county and state; the section, township and range, as applicable, or if in a land grant, so stated; and if the plat is a replat, amendment or addition to an existing subdivision, it shall include the words "section, unit, replat, amendment," etc.
- (3) *Description.* There shall be lettered or printed on the plat a full and detailed description of the land embraced in the plat. The description shall show the section, township and range in which the lands are situated, or if a land grant, so stated, and must be complete so that from such description, without reference to the map, the starting point can be determined and the boundaries run.

- (4) *Index.* If more than one sheet is required for the map, the plat shall contain an index sheet on page one, showing the entire subdivision on the sheet, indexing the area shown on each succeeding sheet, and each sheet shall contain an index delineating that portion of the subdivision shown on that sheet in relation to the entire subdivision. When more than one sheet must be used to accurately portray the land subdivided, each sheet must show the particular number of that sheet and the total number of sheets included, as well as clearly labeled match lines to each sheet.
- (5) *Survey data.* The final plat shall show the length of all arcs, together with central angles, radii and points of curvature. Sufficient survey data shall be shown to positively describe the boundary of each lot, block, right-of-way, easement and all other areas shown on the plat, and all areas shall be within the boundary of the plat as shown in the description. The survey data contained on the plat shall also include the following:
 - a. The scale, both stated and graphically illustrated, on each.
 - b. A north arrow shall be drawn on each sheet, and the bearing or azimuth reference shall be clearly stated on the face or first page of the plat in the notes or title. The north direction shall be at the top or right side of the map or within the 90-degree quadrant, when practical.
 - c. The point of beginning shall be boldly shown, together with the letters POB in bold letters.
 - d. All intersecting street right-of-way lines shall be joined by the long chord of a minimum radius of 25 feet, and all dimensions shall be shown.
 - e. All adjoining property shall be identified by a subdivision title, plat book and page or if unplatted, the land shall be so designated.
 - f. Permanent reference monuments shall be shown in the manner prescribed by F.S. ch. 177 and shall be installed prior to submission of the final plat.
 - g. A three-inch by five-inch space shall be reserved in the upper righthand corner of each sheet of the plat to be used by the clerk of the circuit court for recording information, and each sheet shall reserve three inches on the left margin and a one-half-inch margin on all remaining sides.
 - h. The map shall mathematically close within 0.01 foot and shall be accurately tied to all township, range and section lines occurring within the subdivision by distance and bearing, along with a statement as to error of closure by the surveyor.
 - i. The cover sheet or first page of the plat shall show a vicinity sketch, showing the subdivision's location in reference to other areas of the village.
- (6) *Lot and block identification.* Each lot and block shall be numbered or lettered. All lots shall be numbered or lettered by progressive numbers or letters individually throughout the subdivision or progressively numbered or lettered in each block. Blocks in each incremental plat shall be numbered or lettered consecutively throughout a subdivision.
- (7) *Street names.* The plat shall contain the name of each street shown on the plat. Proposed streets which are in alignment with other existing and named streets shall bear the same name of the existing street. In no case, except as indicated in the preceding sentence, shall

the name of the proposed street, excluding a numerical system, duplicate or be phonetically similar to existing street names, regardless of the use of the suffix street, boulevard, drive, place, court, etc.

- (8) *Not included or excepted parcels.* Not included or excepted parcels must be marked "not part of this plat." No strip or parcel of land shall be reserved by the owner unless the strip or parcel is sufficient in size and area to be of some particular use or service. The intended use of all reserved areas shall be shown on the plat in note form on the cover sheet.
- (9) *Rights-of-way and easements.* All right-of-way and easement widths and dimensions shall be shown on the plat. The plat shall contain a statement that no buildings or any kind of construction, or trees or shrubs shall be placed on easements.
- (10) *Restrictions, reservations and restrictive covenants.* Restrictions pertaining to the type and use of water supply; type and use of sanitary facilities; use and benefits of water areas, canals and other open spaces; odd-shaped and substandard parcels; restrictions controlling building lines; establishment and maintenance of buffer strips and walls; and restrictions of a similar nature shall require the establishment of restrictive covenants and such covenants shall be noted on the plat. Documents pertaining to restrictive covenants shall be submitted with the final plat to be reviewed by the village attorney.
- (11) *Private streets and related facilities.* All streets and their related facilities designed to serve more than one property owner shall be dedicated to public use; however, private streets shall be permitted within property under single ownership, a property owners' association or a condominium or cooperative association, as defined by state law. Where private streets are permitted, ownership and maintenance association documents shall be submitted with the final plat, and the dedication contained on the plat shall clearly dedicate the roads and maintenance responsibility to the association without recourse to the village or any other public agency. The rights-of-way and related facilities shall be identified as tracts for road purposes under separate ownership.
- (12) *Dedications.* The purpose of all reserved areas shown on the plat shall be defined in the dedication on the plat. All areas reserved for use by the residents of the subdivision shall be dedicated and reserved for public use, such as parks and rights-of-way for roads, streets or alleys. The areas may be designated easements for utilities, rights-of-way and easements for drainage purposes. Any other area, however designated, shall be dedicated by the owner of the land at the time the plat is recorded.
- (13) *Preparation statement.* The name and address of the natural person who prepared the plat shall be contained on each page of the plat as required by F.S. § 695.04. The name and address shall be in statement form, consisting of the words, "This instrument was prepared by _____, _____."
- (14) *Existing or recorded streets.* The plat shall show the name, location and width of all existing or recorded streets intersecting or contiguous to the boundary of the plat, accurately tied to the boundary of the plat by bearings and distances.

Sec. 34-435. - Certifications and approvals.

The final plat shall contain on the face or first page the following certifications and approvals, acknowledged as required by law, all being in the form set forth in this article:

- (1) All mortgages, along with the mortgagee's consent and approval of the dedication, shall be required on all plats where mortgages encumber the land to be platted. The signature of the mortgagee must be witnessed and the execution must be acknowledged in the same manner as mortgages are required to be witnessed and acknowledged. If the mortgagee is a corporation, the consent and approval shall be signed in behalf of the corporation by the president or vice-president and the secretary or an assistant secretary, respectively, by and with the authority of the board of directors.
- (2) The plat shall contain the signature, registration number and official seal of the land surveyor, certifying that the plat is a true and correct representation of the land surveyed under his responsible direction and supervision, and that the survey data compiled and shown on the plat compares with all of the requirements of F.S. ch. 177 and this article. The certification shall also state that permanent reference monuments (PRMs) have been set in compliance with F.S. ch. 177 and this article, and that PCPs will be set under the direction and supervision of the surveyor within one year from the date the plat was recorded. When the required improvements have been completed prior to the recording of a plat, the certification shall state that PCPs have been set in compliance with state law and ordinances of the village. When plats are recorded and improvements are to be accomplished under surety posted, as provided for by this article, the required improvements and surety shall include PCPs.
- (3) The plat shall contain the approval and signature block for the mayor and the acknowledgement and signature block of the village clerk.
- (4) The plat shall contain the approval and signature block for the village engineer.
- (5) A title certification shall be contained on the fact or first page of the plat. The title certification must be an opinion of an attorney at law licensed in the state or a title insurance company licensed in the state. The title certification shall state the following:
 - a. The lands as described and shown on the plat are in the name, and apparent record title is held by the person or organization executing the dedication.
 - b. All taxes have been paid on the lands.
 - c. All mortgages on the land, and indicate their official record book and page number.

~~Sec. 34-436.— Submission; time limit.~~

- ~~(a) Upon completion of the requirements of this division, the original drawing of the final plat and required supplementary material shall be presented to the office of the village clerk, who shall disperse copies of the plat to all affected agencies of the village, county and state, requesting their review and comment.~~
- ~~(b) Within six months from the date of the written conditional approval of the construction plans and preliminary plat, the final plat shall be prepared and submitted to the village clerk. Failure to submit the final plat within six months shall require reapplication under sections 34-401—34-403.~~

.....

~~DIVISION 6.— VARIANCES~~

Sec. 34-541.— Generally.

- (a) ~~*Applicability.* When, because of the tract to be subdivided, its topography, the condition or nature of adjoining areas or the existence of other unusual physical conditions, literal or strict enforcement of the provisions of this article would cause an unusual, exceptional or unnecessary hardship, or result in real difficulties or undue hardship or injustice, the village council may vary or modify the requirements set forth in this article. Such variance shall not be granted if it has the effect of nullifying the intent and purpose of this article. In granting variances, the village council may require conditions that will secure, insofar as practical, the objectives of this article.~~
- (b) ~~*Written application.* Variances shall not be granted unless a written application for a variance has been submitted to the village council, demonstrating the following:~~
- ~~(1) Special conditions and circumstances exist which are peculiar to the land involved and which are not applicable to other lands.~~
 - ~~(2) A literal interpretation of the provisions of this article would deprive the applicant of rights commonly enjoyed by other properties.~~
 - ~~(3) The special conditions and circumstances do not result from the actions of the applicant.~~
- (c) ~~*Public hearing.* The village council shall set a public hearing on the proposed variance and shall make findings that the following requirements of this section have been met:~~
- ~~(1) The reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that would make possible the reasonable use of the land.~~
 - ~~(2) The granting of the variance would be in harmony with the general purpose and intent of this article; would not be injurious to the surrounding territory; would not impair the desirable general development of the neighborhood or the community as proposed in the comprehensive plan; or would not otherwise be detrimental to the public welfare.~~
- (d) ~~*Grant.* In granting any variance, the village may prescribe and require appropriate conditions and safeguards in conformity with this article. Any variance granted by the village shall be noted in its official minutes, along with the reasons which justify the granting thereof and any required conditions and safeguards.~~

Section 3. Codification. This ordinance shall be codified in the Code of Ordinances of the Village of Palm Springs, Florida.

Section 4. Repeal of Conflicting Ordinances. All ordinances, resolutions or parts of ordinances and resolutions in conflict with this Ordinance are hereby repealed.

Section 5. Severability. If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this Ordinance.

Section 6. Effective Date. This Ordinance shall become effective immediately upon adoption.

Council Member _____, offered the foregoing Ordinance, and moved its adoption. The motion was seconded by Council Member _____, and upon being put to a vote, the vote was as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
BEV SMITH, MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JONI BRINKMAN, VICE MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PATTI WALLER, MAYOR PRO TEM	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DOUG GUNTHER, COUNCIL MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
GARY READY, COUNCIL MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The Mayor thereupon declared this Ordinance approved and adopted by the Village Council of the Village of Palm Springs, Florida, on second reading, the _____ day of _____, 2019.

VILLAGE OF PALM SPRINGS, FLORIDA

BY: _____
BEVERLY O. SMITH, MAYOR

First Reading: _____

Second Reading: _____

ATTEST:

BY: _____
KIMBERLY M. WYNN, VILLAGE CLERK

REVIEWED FOR LEGAL FORM AND SUFFICIENCY

BY: _____
GLEN J. TORCIVIA, VILLAGE ATTORNEY



Village of Palm Springs

Executive Brief

AGENDA DATE: October 8, 2019

DEPARTMENT: Planning, Zoning & Building

ITEM 6.1: WORKSHOP DISCUSSION: Variances

SUMMARY: At its September meeting, the P&Z Board asked for time to be set aside on a future agenda to discuss variances.

A variance is a deviation from strict application of the Code that will not be contrary to the public interest, that is due to conditions unique to the land, and that is not self-created.

Variances are typically considered for dimensional characteristics (setback, buffer width, etc.) that cannot be met due to property constraints that are not the result of actions of the applicant.

Per Section 34-602(2) of Village Code, variances must meet seven (7) criteria in order to be approved:

- 1) Special conditions exist which are peculiar to the property (and are not applicable to other parcels in the same zoning district);
- 2) The special conditions do not result from actions of the applicant;
- 3) Granting the variance will not provide a special privilege to the applicant;
- 4) Strict enforcement of the code would deprive the applicant rights commonly enjoyed by others (and would create an undue hardship)
- 5) The request is the minimum variance possible to make use of the land;
- 6) The variance is generally in harmony with the intent of the code; and
- 7) The variance will not be injurious to the area or detrimental to the public welfare.

A variance cannot be granted to allow an unpermitted use or to grant additional density or intensity greater than the allowance provided by the Comprehensive Plan. The Village Council has reserved unto itself the authority to grant variances for signs and hours of operation.

The past two years, the P&Z Board has considered the following variances:

- Residence Side Setback: 10' in lieu of required 25' in consideration of right-of-way dedication
- Communication Tower Setback: 79' in lieu of required 161.7' in consideration of heavy commercial area
- Pool Setback: 10' in lieu of required 25' in consideration of existing residence and rear yard area
- ALF Setback: 28.7' (south) and 34.4' (east) in lieu of required 50' setback in consideration of existing improvements
- ALF Distance Separation from DayCare: abutting in lieu of required 1500' separation in consideration of existing uses

The past few months, the P&Z Board has approved variances in consideration of the size and configuration of infill parcels:

Soma Medical Office

- Landscape Buffer Width: 10' ROW buffer in lieu of required 15' buffer
- Landscape Buffer Width: 5' rear buffer in lieu of required 15' buffer
- Dumpster Setback: 5' from residential property in lieu of required 25'
- Parking Spaces: 55 spaces in lieu of required 71 spaces
- Drive Aisles Width: 22' wide in lieu of required 26'

Alice Avenue Medical Office

- Front Setback: 38.68' in lieu of required 50'
- Rear Setback: 12' in lieu of required 20'
- Landscape Buffer Width: 5' rear buffer in lieu of required 10' buffer
- Landscape Buffer Width: 5' side buffer in lieu of required 10' buffer
- Drive Aisle Width: 24' wide in lieu of required 26'

Express Car Wash

- Side Setback: 5' in lieu of required 15'
- Landscape Buffer Width: 5' side buffer in lieu of required 10' buffer
- Utility Easement Overlap: 9.24' overlap in lieu of maximum 5' overlap

FISCAL IMPACT:

There is no direct fiscal impact to the Village.

ATTACHMENTS:

Sec. 34-602(2) Variances

Sec. 34-602. - Land Development Board. [Note: Being updated to Planning & Zoning Board]

(2) *Variances.*

- a. The land development board shall authorize, upon appeal, such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship, including any alterations to nonconforming or grandfathered uses or structures. In order to authorize any variance in the terms of this chapter, the land development board must and shall find that:
 1. Special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other lands, structures or buildings in the same land development district.
 2. The special conditions and circumstances do not result from the actions of the applicant.
 3. Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings or structures in the same land development district.
 4. Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same land development district under the terms of this chapter and would work unnecessary and undue hardship on the applicant.
 5. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
 6. The grant of the variance will be in harmony with the general intent and purpose of this chapter.
 7. Such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
- b. In granting any variance, the land development board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter. The land development board may also prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed, or both. Under no circumstances, except as permitted in this section, shall the land development board grant a variance to permit a use not generally permitted in the land development district involved. No nonconforming or grandfathered use of neighboring lands, structures or buildings in the land development district shall be considered grounds for the authorization of a variance. Financial hardship is not to be considered alone as sufficient evidence of a hardship in the grant of a variance. A variance granted under the provisions of this chapter shall automatically lapse if building construction, in accordance with the plans for which such variance was granted, has not been initiated within one year from the date of granting of such variance by the land development board, or, if judicial proceedings to review the land development board's decision are instituted, from the date of entry of the final order in such proceedings, including all appeals.